

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ORVILLE MOE,

Plaintiff,

vs.

BARRY W. DAVIDSON, et al.,

Defendants.

No. CV-12-00189-JLQ

**ORDER DIRECTING ENTRY OF
JUDGMENT OF DISMISSAL
WITHOUT PREJUDICE**

The Complaint was filed in this matter on April 4, 2012. (ECF No. 1). On April 6, 2012, Plaintiff, proceeding *pro se*, filed a document entitled, "Motion for Quick Set Hearing for the Imperative Necessity..." (ECF No. 4), which the court construed as a request that this court stay a pending State court action. A Response was filed to the Motion (ECF No. 7). On April 12, 2012, Plaintiff filed a Notice of Voluntary Dismissal (ECF No. 13).

Pursuant to Fed.R.Civ.P. 41, a plaintiff may dismiss an action without leave of court if he does so prior to the filing of "an answer or a motion for summary judgment." Although Defendants had apparently been served and had filed a response to the Motion for Stay, Defendants had not filed an answer or motion for summary judgment. Accordingly, leave of court is not required for the dismissal.

IT IS HEREBY ORDERED:

1. Pursuant to the Notice (ECF No. 13), this action will be dismissed without prejudice. The Clerk shall enter Judgment dismissing the Complaint and the claims therein without prejudice. The Motion (ECF No. 4) is denied as moot.

1 **IT IS SO ORDERED.** The Clerk is hereby directed to file this Order, enter
2 Judgment and furnish copies to counsel and Mr. Moe.

3 **DATED** this 17th day of April, 2012.

4 s/ Justin L. Quackenbush
5 JUSTIN L. QUACKENBUSH
6 SENIOR UNITED STATES DISTRICT JUDGE
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